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# *Montana Voter's Guide to the 1992 General Election*

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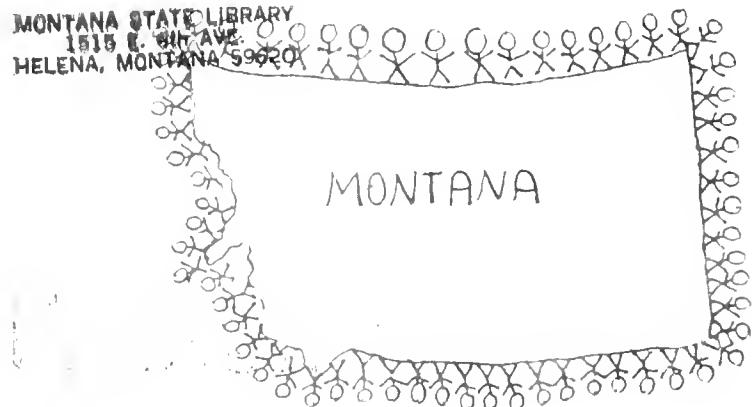
Registering to vote

VOTING IN THE ELECTION IN  
1992,  
IS WHAT MAKES MONTANA RED, WHITE, AND  
BLUE!

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LET'S JOIN TOGETHER AND VOTE!

Drawing by Ramie Holmquist  
of F.E. Miley School in Big Sandy.

*Published by Secretary of State Mike Cooney  
State Capitol - Helena, Montana 59620*

**SECRETARY OF STATE  
STATE OF MONTANA**



**Mike Cooney  
Secretary of State**

**Montana State Capitol  
Helena, MT 59620**

Dear Montana Voter:

One of the most important and valuable aspects of our state's Constitution is the power that the people have to change or amend it. This November 3rd you and the rest of the voters of Montana will be deciding on five different amendments to the Constitution.

The purpose of this pamphlet is to allow you to examine the full text of these measures and learn the arguments of the proponents and opponents before you go to the polls. Each amendment that is approved by a majority of the voters on November 3rd will become part of Montana's Constitution, so study this information carefully.

**Remember that October 5th is the deadline for registering to vote for the November 3rd general election.**

The sketch on the cover was drawn by Ramie Holmquist of F.E. Miley School in Big Sandy. Ramie won a contest among grade school students throughout the state.

These drawings are important for two reasons. They point out that people of all ages can participate in the election process. They also should serve as a reminder that the results of this election will effect not only this generation of voters but many future generations of Montanans as well.

This pamphlet has been put together to ensure that the issues and arguments are treated equally. For this reason, each ballot measure begins on a new page.

An audio version of this pamphlet in cassette form is available through your county library as well.

I also have a telecommunications device for the deaf (TDD) set up in my office to answer election questions for voters with hearing impairments. The phone number for the TDD is 444-4732.

This is an important election for many reasons, so please remember to vote.

Sincerely,

A handwritten signature in black ink that reads "Mike Cooney".

## ***What is the Voter Information Pamphlet?***

The Voter Information Pamphlet (or VIP) is a publication printed by the Secretary of State to provide Montana voters with information on all the ballot issues that will be appearing on the statewide ballot. The Secretary of State distributes the pamphlets to the county election administrators who mail a VIP to each household with a registered voter.

## ***What's in the VIP***

The VIP shows how each ballot measure will be appearing on the ballot. This includes:

1. the ballot number,
2. the method of placement on the ballot,
3. the title of the measure,
4. the attorney general's explanatory statement, if applicable,
5. the fiscal statement, if applicable, and
6. the statements of implication (the FOR and AGAINST statements).

The VIP also contains arguments advocating adoption and rejection of each ballot measure written by appointed committees. Finally, the VIP contains the full text of the measure so that you can read and decide for yourself how you will vote on these questions on November 3, 1992.

## ***What's the difference between a referendum and an initiative***

A referendum is a measure that the Legislature has placed on the ballot for a vote of the people. An initiative is a measure that qualified for the ballot by having enough voters sign a petition requesting that it be placed before the people for a vote.

This year there are three constitutional amendments referred by the Legislature. They have been assigned the ballot numbers C-22, C-23, and C-24.

Two constitutional amendments qualified for the ballot through the initiative process. To distinguish these measures from the constitutional amendments referred by the Legislature, they are given the prefix CI for Constitutional Initiative. This year the voters will be deciding on CI-63 and CI-64. When reading the VIP, you will often see these abbreviations used.

## ***Who writes the information that goes into the VIP***

Attorney General - The Attorney General writes an explanatory statement for each measure. This statement, not to exceed 100 words, is a true and impartial explanation of the purpose of the measure in easy to understand language. The fiscal note, also prepared by the Attorney General, is a statement of the impact the measure would have on the state's revenues, expenditures, or fiscal liability. If the for and against statements are not provided by the Legislature, then the Attorney General will write these as well.

Pro and Con arguments - The members of the committees that write the arguments and rebuttals for each measure are appointed in a procedure set out by state law. For referenda, the Speaker of the House and President of the Senate will each appoint one pro and con committee member. These two appointees will then choose a third.

For initiatives, the three-member pro committee is appointed by the sponsor of the petition. The Governor, Attorney General, Speaker of the House, and President of the Senate each appoint one member to the con committee, and those four members choose a fifth member.

Arguments are limited to 500-words and rebuttals are limited to 250-words.

# **Constitutional Amendment 22**

## **HOW THE ISSUE APPEARS ON THE BALLOT**

### **Constitutional Amendment 22**

An amendment to the Constitution referred by the Legislature

**AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 8, OF THE MONTANA CONSTITUTION TO GENERALLY REVISE THE LAW RELATING TO THE SELECTION OF SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES; TO REQUIRE THAT ELECTION, CONFIRMATION, AND RETENTION OF JUSTICES OR JUDGES MUST BE AS PROVIDED BY LAW; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.**

The Legislature submitted this proposal for a vote. It would amend the Montana Constitution to clarify procedures for election of supreme court justices and district court judges and for the filling of vacancies. Judges appointed to fill a vacancy would be confirmed by the senate and serve until the expiration of the term of the judge whose position is being filled. No appointee could serve past the term of his or her predecessor without standing for election. Incumbent judges unopposed for re-election would be placed on the ballot to allow voters to approve or reject them for another term.

**FISCAL NOTE:** This measure will have no material fiscal impact.

- FOR** amending the constitution to mandate the election of justices and judges as provided by law.
- AGAINST** amending the constitution to mandate the election of justices and judges as provided by law.

## **Argument FOR Constitutional Amendment 22**

Montanans expect and deserve to have their judges elected on a timely basis. A recent Montana Supreme Court interpretation of Montana Constitution permits newly appointed judges to carry past the term of their predecessor without facing an election. Without changing the constitution, it would be possible to have judges avoid facing election if a succession of resignations and appointments occurred. This proposed amendment to the constitution prevents this from happening.

It is clear that the present process for appointment of district and supreme court justice positions flies in the face of the intent of the framers of the Montana Constitution. The current practice has thwarted the electoral process by allowing judges and justices to resign in the off-year which permits their appointed successors to serve a full three years before they have

to stand for election.

In part, this loophole was created in 1987, when the Attorney General issued an opinion holding that appointed judges don't have to run for election until after confirmation by the Montana Senate which was never the intention of the framers of our Constitution.

The 1972 constitutional language was written under the assumption that Montana would have annual legislative sessions. With annual sessions a yearly confirmation process could have been conducted. When annual sessions were abolished in 1974, a legal situation was created allowing judges and justices the luxury of avoiding election for three years before standing for election.

## Argument FOR Constitutional Amendment 22 (continued)

The Montana Constitution is clear in providing for the **electoral selection of judges**. 28% of our current Supreme Court Justices and 41% of our current District Court Judges were first appointed. This amendment seeks to bolster the constitution in guaranteeing the right of all Montanans to vote and participate in the electoral system while maintaining the balance of powers between the three branches of government by eliminating the potential for improper use of the appointment process.

If you subscribe to the notion that the Montana voter has a right to have **executive judicial appointments face elections in a timely fashion**, vote FOR Constitutional Amendment 22.

**This measure's PROPONENTS' argument and rebuttal were prepared by Senator Chet Blaylock, Representative Bill Strizich, and Representative Vicki Cocchiarella.**

## Argument AGAINST Constitutional Amendment 22

The proposed amendment creates more problems and uncertainties than it cures. Adoption of this Constitutional wording will result in additional litigation to resolve ambiguities it creates. The proposal unconditionally requires judges to be elected prior to assuming the duties of the office. This precludes temporary appointments to ease court caseloads, could require repetitive nominations, and minimizes the need but retains the requirement for expensive Senate confirmation hearings.

The current Constitution requires judges to face election when the term of office expires or after Senate confirmation of an appointee. However, proposed Section 8(1) requires that Supreme Court justices and district court judges shall be elected. It makes no provision for the appointment of judges to fill vacancies before an election. Although the intention is to allow for the appointment and the subsequent submission of the appointed judge to the electorate, the proposed language precludes appointees from acting until after an election. Furthermore, the proposed amendment does not address the appointment of temporary judges, without election, which is specifically provided for in Section 3-5-201 Montana Codes Annotated. This practice of appointing retired judges to assist with large caseloads is frequent and helpful. It expedites rulings and actions in cases for less expense and often saves the State money. The proposed language will eliminate this benefit.

conflict. The first section requires all judges to be elected while the second section provides for the appointment of judges who are not elected.

Since the current Constitutional language requires the election of judges, the only objection left is the time delay between a judicial appointment and the date of the election. Delays are caused by Senate confirmation and state election laws. If an appointment is made after the legislature adjourns, confirmation must wait until the next session, approximately two years. This proposal makes no change in the confirmation procedures. Existing state laws require that a person wishing to be included on the statewide general election ballot must file for the office 75 days prior to the primary election date. Changes to these laws instead of a Constitutional amendment would decrease the potential delays.

The appointment procedure is further complicated by the new requirement that no appointee shall serve past the term of his predecessor without standing for election. As an example of the problem which could arise, one should consider an appointment made in

Sections (1) and (2) of the proposed amendment

## Argument AGAINST Constitutional Amendment 22 (continued)

1992 to fill a position vacated by a judge whose term of office would expire in January 1993. If this proposed amendment were in effect now, the position would again be vacated in January and lengthy nomination procedures re-initiated. This could postpone Senate confirmation hearings until the 1995 legislative session.

Amending our Constitution is not something which should be undertaken lightly, and should not be

considered if existing laws could be changed by the legislature to resolve the concerns of the proponents.

For these reasons, the proposed amendment should be rejected.

**This measure's OPPONENTS' argument and rebuttal were prepared by Senator James Burnett, Representative Dick Simpkins, and Ward E. Taleff.**

## PROPOSONENTS' rebuttal of the argument opposing Constitutional Amendment 22

The opposition to C-22 relies on raising confusion rather than substantive issues. A common language reading of C-22 reveals that with this change, judges will be appointed as in the past, but must stand election as soon as possible. C-22 does not raise costs. No additional workload is created by C-22 other than what exists under the current procedure. Confirmation hearings have no effect on the cost of Senate operations.

The opponents have chosen to read Section 8, sub. 1 in the absence of sub. 2 of that same section and vice-versa. This confuses and does nothing to speak to the issues they portend to raise.

The diversity of legal opinion on current Constitutional language, demonstrates that this language is far from sufficient as implied by the

opponents. The opponent's attempt to shift blame to election laws and confirmation procedures is also baseless as these laws have no effect on misuse of the appointment process.

The opponents further insist that limiting a judge's term to that of his predecessor complicates matters. To the contrary, it simplifies them by placing the requirement in plain language.

The proponents of C-22 do agree that the Constitution is not something to be amended frivolously. We feel that this most serious step must be taken to preserve a basic precept of democracy - our right to elect public officials while maintaining the integrity of Montana's three branches of government.

## OPPONENTS' rebuttal of the argument supporting Constitutional Amendment 22

Concern for speedy elections of judges is understandable. However, this proposed amendment could cause a judicial impasse and does not reduce election delays. Anyone dissatisfied with a decision by a Judge appointed after amending the Constitution could appeal the ruling because the judge had not been elected and lacked jurisdiction. This could jeopardize past decisions.

The amendment does not adequately address the causes of time delays between appointments and

elections -- Senate confirmation and state laws.

The requirement for Senate confirmation prior to election is retained. The intent of the framers of our Montana Constitution is clear. During the convention, election requirements similar to the proposed amendment were rejected and the existing language requiring confirmation prior to the general election was unanimously adopted.

The Attorney General's opinions upholding the

## **Rebuttal of the argument supporting Constitutional Amendment 22 (continued)**

delays were based upon state laws establishing filing deadlines for judicial elections. The solution is to change the laws.

Safeguards addressing proponent concerns are already in place. The Governor is limited to appointments from a list recommended by a Judicial Nominating Committee which is required by the Constitution, and whose membership and rules are established by the legislature.

If the people want judges elected before they serve, the Constitution should be changed to the wording rejected by its framers. If the desire is to reduce the time delays between appointments and elections, then laws should be changed. Legislators who overwhelmingly supported this referendum during the session should willingly support changing the laws. In any case, this proposed amendment should be rejected.

# **Constitutional Amendment 23**

## **HOW THE ISSUE APPEARS ON THE BALLOT**

### **Constitutional Amendment 23**

An amendment to the Constitution referred by the Legislature

**AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X, SECTION 11, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE STATE MAY TRANSFER PUBLIC LANDS OF THE STATE THAT ARE NOT SUBJECT TO RESTRICTION BY A GRANT FROM THE UNITED STATES TO A LOCAL GOVERNMENT FOR LESS THAN FULL MARKET VALUE AS PROVIDED BY GENERAL LAWS; AND PROVIDING AN EFFECTIVE DATE.**

The Legislature submitted this proposal for a vote. The Montana Constitution prohibits the sale or transfer of public lands unless the state receives the full market value of the land sold. This measure would amend the Constitution to allow the transfer of state lands to a political subdivision of the state for less than full market value, unless prohibited by federal restrictions, and would allow the Legislature to enact laws providing for such disposition of public lands. All other transfers of public land would still require the payment of full market value to the State.

**FISCAL NOTE:** The proposed amendment's fiscal implications depend upon which land parcels the state transfers. Transferring income-producing parcels would result in some loss of income. However, the state would realize some fiscal savings because it would not have to manage the parcels.

- FOR** allowing the state to transfer public land to local governments for less than full market value.
- AGAINST** allowing the state to transfer public land to local governments for less than full market value.

## **Argument FOR Constitutional Amendment 23**

This amendment has been proposed in order facilitate the transfer of property between the State of Montana and political subdivisions (e.g. municipalities and counties) of the state.

The State of Montana has acquired and owns hundreds of parcels of land which, in many instances, are unused. Some of the parcels were donated by private landowners, some are remainders of right-of-way acquisitions and others have been owned by the state for so long that the method of acquisition is no longer known.

In some of these cases, state land has been considered by local governments as potential park areas, fair and

rodeo grounds, recreational access and industrial park development. For example, in Lewistown, a parcel of state-owned property has been identified as potential parkland but the local government is not in a position to purchase it from the state at fair market value. Even though the local government (Fergus County) and area residents are willing to make the finances available to turn the area into a park and a nature area for educational purposes, the constitution requires the state to sell it at fair market value. In this particular case, the fair market value would be based on residential property prices and would be out of financial reach for the Lewistown residents. In Helena, a private, non-profit organization is sub-

## **Argument FOR Constitutional Amendment 23 (continued)**

leasing the fairgrounds from the county. The county leases the property from the State of Montana and pays an annual rental fee. The non-profit organization continues to put on the county fair and host traditional fairgrounds events. Renewed interest on the part of local residents for repairing and restoring the fairgrounds has revealed problems in financing improvements to the grounds because of the state ownership of the land. The county would like the opportunity to purchase the land from the state but, as is the case with Fergus County, is not in the financial position to purchase the 300+ acres at the fair market price.

Importantly, passage of this amendment would not affect school trust lands. The amendment is limited to public lands that are not subject to the restrictions of the Federal State Enabling legislation. School trust lands would continue to be administered by the State

Lands Commission and the revenue derived would continue to be reserved for schools.

Another argument for passage of this amendment is, as the Attorney General's fiscal note implies, state management costs of administering these lands could be reduced. If these lands don't benefit state government, and yet hold a potential to benefit local governments, we believe it is in the best public interest to allow local governments to acquire them for local projects. The passage of CA 23 would be an important first step towards realizing this goal. We urge you to consider passage of this important amendment.

The measure's **PROPONENTS'** argument and rebuttal were prepared by Senator Mignon Waterman, Representative Larry Hal Grinde, and Linda Stoll-Anderson.

## **Argument AGAINST Constitutional Amendment 23**

No argument was submitted.

## *Constitutional Amendment 24*

### **HOW THE ISSUE APPEARS ON THE BALLOT**

#### Constitutional Amendment 24

An amendment to the Constitution referred by the Legislature

**AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO INCREASE THE MEMBERSHIP ON THE BOARD OF REGENTS TO EIGHT MEMBERS AND TO REQUIRE THE APPOINTMENT OF ONE NATIVE AMERICAN MEMBER.**

The Legislature submitted this proposal for a vote. It would amend the Montana Constitution to increase the membership on the Board of Regents from seven to eight members and require that one member of the Board be a Native American. All Board members would still be appointed by the Governor.

**FISCAL NOTE:** This measure will increase costs of the Board of Regents by \$4,800 per year in travel and per diem costs of the additional member.

- FOR** increasing membership on the board of regents to eight members and requiring the appointment of one Native American member.
- AGAINST** increasing membership on the board of regents to eight members and requiring the appointment of one Native American member.

### **Argument FOR Constitutional Amendment 24**

Indian education has lagged behind education for whites in Montana over many decades. Even in 1980 the U.S. Census reflected a large disparity in the number of Indian high school graduates as compared to graduates from Montana's overall population. At that time, 51% of the Montana adult population completed high school while less than half that number, 23% of the Indian population completed the same level.

In Montana, Indian people make up 6% of the State's population. This is the largest minority population by far in the State, and it is the minority population that is growing most rapidly. According to recent records from the Office of Public Instruction in grades K-8, the Indian population is 10%; in high school the Indian population is 7% according to the Office of Public Instruction. Poverty and unemployment are the greatest problems the Indian tribes have, and poverty and unemployment rates are much higher in

the State's seven reservations than among white areas.

Article X of the Montana Constitution guarantees "equality of educational opportunity to each person in the State". The Constitution also recognizes "the distinct and unique cultural heritage of American Indians" and goes on to emphasize Montana's commitment to educational goals designed to preserve Indian peoples' cultural integrity.

Montana Indians exercise their rights as citizens by depending upon the public education system. Indian people recognize the need for education and have made earnest attempts to participate in Montana's public school system.

The failure of Montana's Indian peoples to thrive makes it clear that Indian representation on the University System Board of Regents is necessary.

## Argument FOR Constitutional Amendment 24 (continued)

The perspective of an Indian representative would further the goal of better participation by Native Americans and would ultimately ensure that Montana's higher education system will provide an environment that brings greater success and equality to Montana's largest minority group.

## Argument AGAINST Constitutional Amendment 24

Constitutional Amendment C-24 should be rejected for three simple reasons:

1. We Montanans simply must put a stop to the ever-increasing size and cost of state government. Although this Amendment would not result in a large increase in government, the problem is that many small increases added together soon become significant. In addition, what may look like a small increase today seems to have a way of growing tomorrow.

2. It is neither logical nor efficient to have major policy-, program-, or budget-planning boards with even-numbered memberships. The potential for tie votes is too great. This results in ineffective management, as well as a lack of majority rule decision-making. In short, it is inefficient government.

## PROPONENTS' rebuttal of the argument opposing Constitutional Amendment 24

The opponents of CA 24 made three arguments advocating rejection of CA 24. Our response is as follows:

1. Unlike legislative advisory committees which are easy to create and whose work is easily forgotten, the Board of Regents derive their powers from the Montana Constitution. The added perspective of a Native American on the Board of Regents is well worth the very minuscule cost associated with increasing the size of the Board.

2. The concern about an even-numbered Board is

This measure's PROPONENTS' argument and rebuttal were prepared by Senator Greg Jergeson, Representative Howard Toole, and Rhonda Lankford.

3. If the Legislature of Montana wants to have a Native American Member on the Board of Regents, the appropriate way to accomplish it is through simple legislation that would require that one of the current member-slots be filled by a Native American. This is the approach that was used to require that one of the slots be filled by a student in the Montana university system. A constitutional change is not even necessary.

Constitutional Amendment C-24 is the wrong approach and should be rejected.

This measure's OPPONENTS' argument and rebuttal were prepared by Senator Lorents Grosfield, Representative Ernest Bergsagel, and Representative Orval Ellison.

false. Even numbered committees work well in the Legislature and in city councils around the state. Rules could easily be adopted to cover the potential problems of an even numbered Board.

3. The Montana Constitution establishes the Board of Regents and describes its powers. Amending the Constitution is the most appropriate way to permanently change the Board of Regents as proposed by CA 24.

So much of what happens to and for Montana's indigenous peoples is at the mercy of the

## **PROPONENTS' rebuttal of the argument opposing Constitutional Amendment 24 (continued)**

establishment which is devoid of American Indian vision, commitment and sensitivity. The time is ripe for indigenous empowerment and for the people of

Montana to recognize the importance of having an American Indian on the Board of Regents. We continue to vigorously urge the adoption of CA 24.

## **OPPONENTS' rebuttal of the argument supporting Constitutional Amendment 24**

No rebuttal was submitted

# **Constitutional Initiative 63**

## **HOW THE ISSUE APPEARS ON THE BALLOT**

### **Constitutional Initiative 63**

An amendment to the Constitution proposed by initiative petition

The Montana Constitution requires that at least 50% of coal severance taxes be dedicated to a trust fund. The Legislature may spend trust fund interest and earnings by majority vote, but may not spend its principal without a 3/4 vote of each Legislative house. This initiative would amend the Constitution to require that the coal severance taxes deposited in the trust fund for the next ten years be placed in a special fund. The special fund's principal could be appropriated by majority vote of the Legislature solely for the purpose of financing capital costs of local government facilities and improvements.

**FISCAL NOTE:** The proposal redirects coal severance tax revenues for ten years from the permanent trust account to the Big Sky Dividend Program. Approximately \$168.0 million will be available from the trust account, over the ten-year period, for the purpose of financing capital costs of facilities and improvements for local government units.

**FOR** amending the Constitution to allow the Legislature, by majority vote, to spend coal severance tax trust fund principal for local government facilities and improvements.

**AGAINST** amending the Constitution to allow the Legislature, by majority vote, to spend coal severance tax trust fund principal for local government facilities and improvements.

## **Argument FOR Constitutional Initiative 63**

It's time for Montana to prepare for the future, and it's time for Montanans to fix up what we have.

The Big Sky Dividend, by using the annual coal severance tax revenue for the next ten years, will provide the necessary funds to repair, replace and restore Montana's infrastructure.

That infrastructure includes water and sewer systems, bridges, public buildings, and community facilities of all types.

How great is the need? 59% of Montana's bridges are rated as either structurally deficient or functionally obsolete for today's needs. \$430 million dollars worth of repairs and replacements are needed for Montana's water systems, sewer systems and solid waste facilities. A report originally issued in 1984 put Montana's total infrastructure needs at \$7 billion, and that figured was revised upwards this year to \$8

billion!

It's time to put some money back into Montana.

The Coal Trust Fund was a wise decision for Montana when it was established and the fund has now grown to more than \$500 million. The Big Sky Dividend simply says that for ten years we won't add new money to the fund. Nothing will be taken from the existing fund which will continue to earn interest and continue as it is now.

The Big Sky Dividend will generate between \$15 million and \$20 million a year, which in turn can be turned into \$45 million to \$60 million a year through matching grants, local bond issues, federal funds and other means. That's as much as \$600 million over the ten years of the program and that also means thousands of new jobs in Montana and expanded community spending.

## Argument FOR Constitutional Initiative 63 (continued)

In the signature collecting process to get this measure on the ballot, nearly 50,000 Montanans signed petitions. That's the highest number of signatures collected in 1992 for ballot issues and indicates the support of the program across Montana.

You are sincerely and strongly urged to vote yes for CI-63, the "Big Sky Dividend".

**This measure's PROPONENTS' argument and rebuttal were prepared by Ken Dunham, Dennis M. Burr, and Mike Mathew.**

## Argument AGAINST Constitutional Initiative 63

CI-63 is:

1) **Unnecessary** because we have already addressed Montana's infrastructure problem through the Treasure State Endowment. The Treasure State Endowment, approved by a vote of the people in June, will provide more assistance to local government permanently (not just for 10 years) in a manner better designed to meet the needs of local governments than CI-63.

The Treasure State Endowment can fund over \$100 million a year even in the first year because of jump start bonds, debt retirement subsidies, and other options for local government assistance-far more than \$30 or \$40 million under CI-63 if CI-63 is limited to a 50% matching grant as the Governor proposes.

2) **A very dangerous precedent for our Coal Tax Trust Fund.** The Coal Tax Trust Fund is not a rainy day fund; it is an endowment. It was intended to set aside a portion of the coal tax so that the interest income (already over \$50 million a year) will benefit everyone, now and in the future-money you and I would have to make up in additional taxes if the Fund is spent.

**CI-63 will spend the Trust Fund.** It amends the Constitution to allow all the money that would otherwise go into the Trust Fund to be sidetracked to infrastructure. Once the precedent to tap the Trust is set, it will be tapped again and again until it's all gone.

The same thing has already happened in most other states with a Trust Fund. The statutory Trust Funds

in Colorado, Wyoming, and North Dakota have now been spent for purposes other than those for which they were originally created.

3) **Wasteful** because it throws money at local governments (through a 50% matching grant) whether they need a 50% matching grant or not. The existing program will grant assistance according to what the local government needs, including, if necessary, a 100% grant.

4) **Costly.** By taking twice as many dollars out of the Coal Trust Fund, it will cost the General Fund an additional \$35 million in lost interest over the next 10 years - \$35 million more than the existing Treasure State Endowment.

5) **A gigantic pork barrel.** As presented to the '91 Session, final approval would be left to the Governor. In other words, the Governor would have the power to dole out \$15 million a year (\$20 million after 4 years) to local governments. This is an invitation to any governor to use the money for political advantage.

6) **Harmful to education and water projects.** By not excluding other funds established after January 1, 1992 (funds established before that date are excluded), CI-63 will eliminate the emergency school construction fund created in January 1992 to help school districts who need new school buildings because of fire damage or other reasons. Similarly, by limiting the exclusion to funds "not obligated" to repayment of bonds, it appears that all new water projects under our very successful coal tax water

## Argument AGAINST Constitutional Initiative 63 (continued)

bond program will be eliminated.

**Vote no on CI-63.**

This measure's OPPONENTS' argument and rebuttal were prepared by Senator Thomas E. Towe, Representative John Johnson, Senator Steve Doherty, Representative Hal Harper, and Patrick Sweeney.

## PROPONENTS' rebuttal of the argument opposing Constitutional Initiative 63

When you read CI-63 you will notice that the provision protecting the Coal Tax Trust is still in place: "The principal of the trust shall forever remain inviolate unless appropriated by vote of three - fourths (3/4) of the members of each house of the legislature." CI-63 proposes that new payments to the trust from July 1, 1993 until June 30, 2003 be held in a separate fund within the trust. The Coal Tax Trust will remain at \$550 million. New coal tax collections may be used to finance capital costs of facilities and improvements for local government units, but only if approved by a majority vote of both houses of the legislature.

Is this initiative necessary? YES! Local government facilities such as sewer and water systems are deteriorating. This initiative provides a source of

revenue to repair and maintain vital services without increasing local property taxes. CI-63 does not spend the Coal Tax Trust, and it is not wasteful because local government improvements are vital to our economic recovery.

The opponents to the Big Sky Dividend say that it leaves final approval of projects to the governor. This is simply not true. The legislature will have full control over the Big Sky Dividend. Nor will CI-63 affect the Emergency School Construction Fund or the Water Bond Program.

We urge you to vote in favor of using coal taxes to rebuild our local government infrastructure, to provide jobs, improve services, and provide the framework for economic growth in Montana.

## OPPONENTS' rebuttal of the argument supporting Constitutional Initiative 63

**Don't be fooled.** CI-63 is not necessary. The Treasure State Endowment, passed by people in June, already addresses the infrastructure needs of local governments. Existing law already:

- \* Finances more construction projects.
- \* Is based on actual need of local governments.
- \* Is permanent. CI-63 ends in 10 years.

If CI-63 is passed, it will take all the money, and the Treasure State Endowment will go unfunded.

**CI-63 is simply a wasteful duplication of government spending.**

**Don't be fooled.** CI-63 will cost taxpayers. At least \$35 million more will be lost to the State's General Fund because of the loss of interest. You and I, the taxpayers, will have to pay **more taxes** to make up for this loss.

**Don't be fooled.** CI-63 does bust the Coal Tax Trust. By stopping the flow of money into the Trust for 10 years, it is the first step towards the spending of our endowment fund. Another "worthy program" will tap a little more, then a little more, and it soon will be all gone as it is in Colorado. Then, everyone will have to pay **more taxes** to make up for the \$50 million in interest income we

## OPPONENTS' rebuttal of the argument supporting Constitutional Initiative 63 (continued)

receive from the Trust every year.

**Don't be fooled.** CI-63 is a gigantic pork barrel. By giving final approval to the Governor, he/she can use our coal tax endowment money for political purposes.

Also, by limiting emergency school bonds and water bonds, it will be harmful to education and to existing water programs.

# Constitutional Initiative 64

## HOW THE ISSUE APPEARS ON THE BALLOT

### Constitutional Initiative 64

An amendment to the Constitution proposed by initiative petition

This initiative would amend the Montana Constitution to prohibit certain public officials from seeking re-election if they have already held office for the following number of years: 8 years in any 16-year period for governor, lieutenant governor, secretary of state, state auditor, attorney general, superintendent of public instruction, state representative, or state senator; 6 years in any 12-year period for United States Representative; and 12 years in any 24-year period for United States Senator. An official still could be re-elected by write-in vote. The measure would apply only to terms of office that begin during or after January 1993.

- FOR** amending the Constitution to impose limits on how long statewide elected executive officers, state legislators and members of congress may hold office.
- AGAINST** amending the Constitution to impose limits on how long statewide elected executive officers, state legislators and members of congress may hold office.

## Argument FOR Constitutional Initiative 64

A citizen state legislature and a citizen Congress are clearly what our founding fathers intended. Montanans are demanding a return to that kind of government. Term limitation is an integral part of such a return. No other reform could so quickly change our state legislature and our Congress. And no other reform could come closer to guaranteeing a return to the idea of citizen lawmakers.

Term limitation can pave the road to citizen victories in our state legislature and Congress. It has the potential to hamper incumbent abuses. It will likely lead the state legislature and Congress to resolve problems and legislate more in the public interest. And it will bring more private sector know-how and expertise to legislating. Most importantly, term limitation will encourage more people -- citizens -- to run for office. And these people will view the job as a time of service, not a career. This is the essence of a true citizen legislature.

We urge you to vote **YES** on Constitutional Initiative 64 (CI-64) and return control of the state legislature and the Congress to the people.

Today's mass media allows the candidate with the most money to dominate political campaigns. Coupled with political "game-playing" and the political "good-old-boy" network, most citizens are cut out of the political system. Ordinary citizens, who are willing and able to contribute, are discouraged from challenging incumbents. And it is the long-term incumbents who are the problem. Granted, there is turnover in legislative seats every election. But these turnovers are almost always where incumbents are not entrenched or have opted to not run again. Fifty-six percent (56%) of the Montana Senators have held their seats for over eight (8) years. Thirty-seven percent (37%) of the Montana House of Representatives have been there over eight (8) years. Montana's two congressmen and one senator have been in Washington, D.C. for an average of 18 years each. Many of these lawmakers have held their rein of political power since the 1970s and one has been in the Montana House of Representatives since 1959.

With all this so-called "experience", why are our governments so deeply in dept? Why are our state

## Argument FOR Constitutional Initiative 64 (continued)

and national programs in so much trouble? Because these experienced lawmakers, and their special interest, big money lobbyist supporters, are more concerned about re-election and political game-playing than solving problems for the best of all Montana.

These long-term, career politicians are the game-players and power brokers that really run the legislative process in this country. They control the all-powerful committees, they have ready access to special interest money, they have the perks like taxpayer-paid mail, free media and travel expenses that can control re-elections.

## Argument AGAINST Constitutional Initiative 64

*Some folks believe that politicians are reelected to office time after time in Montana. But, it "ain't so," and the facts prove it.*

In the last 50 years, no Montana Governor has served more than two terms. From 1981 to 1991, 87 new members entered the 100-member Montana State House of Representatives, and the 50-member Montana State Senate saw 36 new faces.

*Long service in Montana's public offices is not an issue, and CI-64, imposing mandatory term limits, unnecessarily clutters our laws.*

At the Congressional level, Montana would be foolish to limit the terms of our delegation. In 1992, Montana will elect its sole U.S. Congressman. California will have 53. Ours will be one of 435. The effect of limited terms on the influence of Montana's members of Congress would be devastating. The seniority system of Congress gives states like Montana a chance. Our small delegation is no match for the big city states in terms of numbers. But we can outlast 'em. That has been a traditional source of our strength.

Mike Mansfield was the majority leader of the U.S. Senate for 16 years. If we had term limitations in 1961, when he was elected leader, he would not have been majority leader at all. He would have been out of office!

This career-politician cycle must be broken, and it can not be broken on a local voter level. It must be broken statewide and nationally.

With term limits the voters of Montanans will have more choices of both political parties at the polls and will take back control of their government.

**This measure's PROPONENTS' argument and rebuttal were prepared by Representative Fred Thomas, Ron Oberlander, and Scott Chatham.**

Qualifications for Congressmen and Senators are established in the U.S. Constitution. We cannot strip language from our federal constitution by adoption of a state constitutional initiative. *Plain and simple, CI-64 is illegal.*

Limiting terms would not enhance democracy, it would only ensure that voters need not vote to achieve change. In fact, term limits prohibit full and free democracy by denying voters the right to continue to reelect incumbents who are doing a good job.

*Limiting terms by requiring turnover of elected public officials, would turn control of government over to non-elected bureaucrats and paid lobbyists who become the seats of knowledge and power. Such lobbyists and bureaucrats have a role in government, but it's not to dictate public policy.*

Lastly, the drive for term limits is not a Montana grassroots campaign. Citizens for CI-64 received their total budget of \$25,000 in out-of-state money. They sifted it though a Montana-based committee and spent it with out-of-state firms that paid people to gather signatures! *Montanans should not be fooled by out-of-state interests* who want to dictate our electoral policy.

CI-64 should be defeated before we shoot ourselves in the political foot, or, more accurately, blow off

## Argument AGAINST Constitutional Initiative 64 (continued)

our whole political leg! Full and free democratic elections were fought for and paid for by the blood of millions of Americans. We should reject this anti-democratic, anti-American proposal and retain our freedom to choose.

This measure's OPPONENTS' argument and rebuttal were prepared by Senator Chet Blaylock, Representative Sheila Rice, Rick Bartos, Donald Judge, and Senator Bob Brown.

### PROPONENTS' rebuttal of the argument opposing Constitutional Initiative 64

**CLOUD:** Opponents say term limits will curtail "clout" of long-term, career politicians for small states like Montana. Term limits will give our elected officials greater "clout" than they have now because we will elect average citizens to office who share our concerns about the future. Instead of waiting years before they are allowed by senior members to take part in making policy, our term-limited lawmakers will hit the deck running, knowing that their mandate is to make life better for us...not for themselves.

We are not alone in voting on term limits. It is a national movement. Almost every state in the West -- including California -- as well as states like Florida, Ohio and Michigan are making the same choice for term limits that we are. Colorado voted in Congressional term limits in 1990.

**OUT-OF-STATE MONEY:** Opponents say CI-64 is not a grassroots effort in Montana. Over 57,000 Montana voters signed CI-64 petitions. Over \$16,000 has been raised so far within Montana to support CI-64. If you want to question out-of-state money, check the contributor lists of Congressional incumbents over the past decade and learn that a majority of their re-election money has come from out-of-state, special interests.

**IS IT LEGAL?** Opponents say CI-64 is unconstitutional. The Constitution limits only what government can do, not the people. State term limit drives are an expression of the peoples' right to change government. Plain and simple, CI-64 is legal!

### OPPOONENTS' rebuttal of the argument supporting Constitutional Initiative 64

Montana will soon have only three members of Congress -- about .6% of its membership. If we limit ourselves to whom we can reelect to Congress, the effect on the congressional reelection rate would be almost too small to measure.

However, CI 64 would severely limit the influence of Montana's congressional delegation in the seniority based system of Congress. It makes no sense for Montanans to handicap themselves with term limits when most other states are not even considering doing so. This alone is a powerful reason for rejecting CI 64.

Even the authors of CI 64 concede that in the past eight years the Montana legislature has had a turn overrate of 57%. In the past seventeen years 97% of the faces have changed. Legislative reelection is

not an issue.

Authors of CI 64 say its passage will dramatically rid government of "game-playing," networking and politicians concerned with reelection. Unfortunately, no such ideal system existed at the time of the founding fathers or at any other time. Citizens, with human strengths and weaknesses, elect our governments and hold our offices. With or without CI 64 our government will be a reflection of us.

Only free people, voting responsibly and intelligently, can properly determine who should hold office and how long they should remain. That is the essential function of a democracy. Our time honored constitutional right to decide whom to elect and reelect should not be infringed. Vote against CI 64.

# Complete text of proposed ballot issues

## The Complete Text of Constitutional Amendment 22

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VII, SECTION 8, OF THE MONTANA CONSTITUTION TO GENERALLY REVISE THE LAW RELATING TO THE SELECTION OF SUPREME COURT JUSTICES AND DISTRICT COURT JUDGES; TO REQUIRE THAT ELECTION, CONFIRMATION, AND RETENTION OF JUSTICES OR JUDGES MUST BE AS PROVIDED BY LAW; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article VII, section 8, of The Constitution of the State of Montana is amended to read:

"Section 8. Selection. (1) Supreme court justices and district court judges shall be elected by the qualified electors as provided by law.

(2) The For any vacancy in the office of supreme court justice or district court judge, the governor shall nominate appoint a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate appoint within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination appointment from the same nominees within thirty days of the governor's failure to appoint. Appointments made under this subsection shall be subject to confirmation by the senate, as provided by law. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

(2) If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the

~~incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.~~

~~(3) If an incumbent does not run, there shall be an election for the office. If the appointee is not confirmed, the office shall be vacant and a replacement shall be made under the procedures provided for in this section. The appointee shall serve until the election for the office as provided by law and until a successor is elected and qualified. The person elected or retained at the election shall serve until the expiration of the term for which his predecessor was elected. No appointee, whether confirmed or unconfirmed, shall serve past the term of his predecessor without standing for election.~~

~~(3) If an incumbent files for election and there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general election ballot to allow the voters of the state or district to approve or reject him. If an incumbent is rejected, the vacancy in the office for which the election was held shall be filled as provided in subsection (2)."~~

Section 2. Effective date. This amendment is effective on approval by the electorate.

Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 1992 by printing on the ballot the full title of this act and the following:

- FOR amending the constitution to mandate the election of justices and judges as provided by law.
- AGAINST amending the constitution to mandate the election of justices and judges as provided by law.

## The complete text of Constitutional Amendment 23

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X, SECTION 11, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE STATE MAY TRANSFER PUBLIC LANDS OF THE STATE THAT ARE NOT SUBJECT TO RESTRICTION BY A GRANT FROM THE UNITED STATES TO A LOCAL GOVERNMENT FOR LESS THAN FULL MARKET VALUE AS PROVIDED BY GENERAL LAWS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article X, section 11, of The Constitution of the State of Montana is amended to read:

**"Section 11. Public land trust, disposition.** (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) ~~No Except as provided in subsection (4), no~~ such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as

may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area. Any public land that is not subject to the restrictions of a grant from the United States may be transferred to a political subdivision of the state for less than full market value in pursuance of general laws providing for such disposition."

Section 2. **Effective date.** This amendment is effective on approval by the electorate.

Section 3. **Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 1992 by printing on the ballot the full title of this act and the following:

- FOR** allowing the state to transfer public land to local governments for less than full market value.
- AGAINST** allowing the state to transfer public land to local governments for less than full market value.

## The complete text of Constitutional Amendment 24

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO INCREASE THE MEMBERSHIP ON THE BOARD OF REGENTS TO EIGHT MEMBERS AND TO REQUIRE THE APPOINTMENT OF ONE NATIVE AMERICAN MEMBER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article X, section 9, of The Constitution of the State of Montana is amended to read:

**"Section 9. Boards of education.** (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and

## The complete text of Constitutional Amendment 24 (continued)

authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven eight members, including one Native American member, appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board. (c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by

the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board."

Section 2. **Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 1992 by printing on the ballot the full title of this act and the following:

- FOR** increasing membership on the board of regents to eight members and requiring the appointment of one Native American member.
- AGAINST** increasing membership on the board of regents to eight members and requiring the appointment of one Native American member.

## The complete text of Constitutional Initiative 63

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

Section 1. Article IX, section 5, of the Constitution of the State of Montana is amended to read:

"Section 5. Severance tax on coal - trust fund. (1) The legislature shall dedicate not less than one fourth (1/4) fifty percent(50%) of the coal severance tax to a trust fund, the interest and income from which may be appropriated.

(2) The Except as provided in subsection (3), the principal of the trust shall forever remain inviolate unless appropriated by vote of three-fourths (3/4) of the members of each house of the legislature. After December 31, 1970,

at least fifty percent (50%) of the severance tax shall be dedicated to the trust fund.

(3) From July 1, 1993, through June 30, 2003, collections of the severance tax deposited in the trust fund and not obligated to the payment or security of debt payable from the trust fund and not obligated for deposit in other funds established prior to January 1, 1992, shall be held in separate Big Sky Dividend fund within the trust fund. The fund may be appropriated by a majority of the members of each house of the legislature solely for the purpose of financing capital costs of facilities and improvements for local government units."

## The complete text of Constitutional Initiative 64

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:

Section 1. Article IV of The Constitution of the State of Montana is amended by adding new section 8 that reads:

Section 8. **Limitation on terms of office.**

(1) The secretary of state or other authorized official shall not certify a candidate's nomination or election to, or print or cause to be printed on any ballot the name of a candidate for, one of the following offices if, at the end of the current term

## The complete text of Constitutional Initiative 64 (continued)

of that office, the candidate will have served in that office or had he not resigned or been recalled would have served in that office;

- (a) 8 or more years in any 16-year period as governor, lieutenant governor, secretary of state, state auditor, attorney general, or superintendent of public instruction;
- (b) 8 or more years in any 16-year period as a state representative;
- (c) 8 or more years in any 16-year period as a state senator;
- (d) 6 or more years in any 12-year period as a member of the U.S. house of representatives; and
- (e) 12 or more years in any 24-year period as a member of the U.S. senate.

(2) When computing time served for purposes of subsection (1), the provisions of subsection (1) do not apply to time served in terms that end during

or prior to January 1993.

- (3) Nothing contained herein shall preclude an otherwise qualified candidate from being certified as nominated or elected by virtue of write-in votes cast for said candidate.

**Section 2. Severability.** If a part of this amendment is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this amendment is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 3. Applicability.** Section 1 applies to terms that begin during or after January 1993.

**Section 4. Effective date.** If approved by the electorate, this initiative is effective January 1, 1993.

### ***What do I do when I get to the polls?***

Voting is a simple procedure. There will be several people (called election judges) at the polls to assist you.

Give your name to the first election judge, who will check for your name on the registration list and ask you to sign your name as it is listed in the book. You will then be given your ballot and directed to a voting booth.

After voting, return the ballot to the election judge at the ballot box. The judge will place the voted ballot in the ballot box. That's all there is to it!

### ***What if I can't vote on election day?***

You can vote an absentee ballot if you cannot get to the polls because you: 1) expect to be absent from your precinct or county on election day, 2) are physically incapacitated, 3) suffer from chronic illness or general ill health, or 4) have a health emergency between 5 p.m. on October 30 and noon on election day.

If you qualify for absentee ballot, contact your county election administrator (usually the clerk and recorder) to

request an absentee ballot application. Absentee ballots may be requested starting August 20 for the 1992 general election. Absentee ballots will be accepted up to noon the day before the election.

### ***How can I find out if I am registered?***

If you have voted since that last presidential election, you are still registered to vote. If you are not sure if you are or where you are registered, you should contact your county election administrator. The registration deadline for the general election is October 5.

### ***Who is eligible to register***

Anyone who is a citizen of the U.S. at least eighteen years of age, and a resident of Montana and the county for thirty days by the date of the election may register to vote. (However, convicted felons serving a sentence in a penal institution or individuals determined by a court to be of unsound mind may not register to vote.)

The voter registration card must be completed and signed before a witness before being turned in to the election administrator. The witness can be another registered voter from your county, a deputy registrar, or the election administrator.

Additional copies of this Voter Information Pamphlet are available upon request from your county election administrator or the Secretary of State.

**This document printed on recycled paper.**

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